

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

VAZQUEZ COMMERCIAL CONTRACTING, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:20-cv-00486-DGK
	)	
ZIESON CONSTRUCTION COMPANY, LLC, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**MOTION TO DISMISS UNDER FED. R. CIV. P. 12(B)(6) BY MATTHEW  
MCPHERSON**

Defendant Matthew McPherson moves to dismiss the petition under Fed. R. Civ. P. 12(b)(6) for the reason that the petition fails to state a claim upon which relief can be granted. In general, Plaintiff seeks damages for something to which it was never entitled, for damages in an amount never allowed, under a standard lower than anything expected, and with a policy rationale that would undermine the administrative review system. In support, Mr. McPherson has filed Suggestions in Support (Doc. 72), and requests that the petition be dismissed.

WHEREFORE, defendant Matthew McPherson requests dismissal under Fed. R. Civ. P. 12(b)(6).

Respectfully submitted,

By: /s/ Christopher F. Burger  
Christopher F. Burger, #45179  
Bradley R. Finkeldei, KS(Fed)#19470  
**STEVENS & BRAND, L.L.P.**  
P. O. Box 189  
Lawrence, KS 66044  
(785) 843-0811 - Phone  
(785) 843-0341 – Fax  
[CBurger@StevensBrand.com](mailto:CBurger@StevensBrand.com)  
[BradFink@StevensBrand.com](mailto:BradFink@StevensBrand.com)

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served upon all counsel of record this 11<sup>th</sup> day of September, 2020, by e-filing it into the CM/ECF system, which will automatically deliver a copy to all counsel of record.

/s/ Christopher F. Burger

Christopher F. Burger, #45179